

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ANDREW A. HERZOG, Alleged  
mentally ill and dangerous person.  
Charged with 3<sup>rd</sup> degree assault by  
Norfolk Regional Center Mental  
Health Institution,

Plaintiff,

v.

BILL GIBBS/GIBSON, CEO of the  
Norfolk Regional Center Mental  
Health Institution charging plaintiff  
with 3<sup>rd</sup> degree assault,

Defendant.

8:09CV70

**MEMORANDUM  
AND ORDER**

This matter is before the court on Plaintiff's Motion for Reconsideration, which the court liberally construes as a Motion for Relief Under Federal Rule of Civil Procedure 60(b). (Filing No. [34](#).) Along with his Motion, Plaintiff has filed a Brief in Support. (Filing No. [35](#).)

On January 26, 2010, the court dismissed Plaintiff's Complaint and entered Judgment against him. (Filing Nos. [26](#) and [27](#).) Liberally construed, Plaintiff seeks relief from the court's Judgment pursuant to [Fed. R. Civ. Pro. 60\(b\)\(6\)](#). Rule 60(b)(6) "grants federal courts broad authority to relieve a party from a final judgment 'upon such terms as are just,' provided that the motion is made within a reasonable time and is not premised on one of the grounds for relief enumerated in clauses (b)(1) through (b)(5)." [Liljeberg v. Health Serv. Acquisition Corp.](#), 486 U.S. 847, 863 (1988). However, "[r]elief is available under Rule 60(b)(6) only where exceptional circumstances have denied the moving party a full and fair opportunity to litigate his claim and have prevented the moving party from receiving adequate redress." [Harley v. Zoesch](#), 413 F.3d 866, 871 (8th Cir. 2005).

The court has carefully reviewed Plaintiff's Motion and Brief. Plaintiff has not set forth any "exceptional circumstances" that prevented him from fully litigating his claims or receiving adequate redress. Accordingly, Plaintiff's Motion for Reconsideration is denied.

IT IS THEREFORE ORDERED that: Plaintiff's Motion for Reconsideration (filing no. [34](#)), liberally construed as a Motion for Relief Under Rule 60(b), is denied.

DATED this 1<sup>st</sup> day of May, 2012.

BY THE COURT:

*Richard G. Kopf*

Senior United States District Judge

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